



**BILLING CODE: 5001-03**

**DEPARTMENT OF DEFENSE**

**Department of the Army**

**48 CFR Part 5152**

**[Docket No. USA-2019-DARS-0013]**

**RIN 0702-AB07**

**Repeal of Obsolete Acquisition Regulation: Solicitation Provisions and Contract Clauses**

**AGENCY:** Department of the Army, DOD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes an obsolete Army acquisition regulation for contract clauses governing industrial preparedness production planning and government-furnished property.

**DATES:** This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. John Courtis, 703-697-0888, Email: *john.t.courtis.civ@mail.mil*

**SUPPLEMENTARY INFORMATION:** This final rule will remove 48 CFR part 5152, "Solicitation Provisions and Contract Clauses." Three contract clauses are removed by this rule. The clause at 5152.208-9001, Industrial preparedness planning, was codified on September 20, 1989 (54 FR 38683) and never updated. The purpose of the clause was to clarify contractor responsibilities with respect to industrial preparedness planning, and was intended to be in place for a three-year test period. The clause is no

longer needed because of a clause prescribed in a higher-level regulation. Specifically, the clause at DFARS 252.217-7001 (Surge Option) (codified July 31, 1991 (56 FR 36479)) and most recently updated December 4, 2018 (83 FR 62503)), prescribed for use when a surge option is needed in support of industrial capability production planning, informs contractors that the Government has the option to increase the quantity, or accelerate the delivery, of supplies or services under the contract and provides the terms for the exercise of the option and subsequent delivery of the surge quantities.

The clauses at 5152.245-9000, Government property for installation support services (fixed-price contracts); and the clause at 5152.245-9001, Government property for installation support services (cost-reimbursement contracts), were codified on September 27, 1989 (54 FR 39539) and never updated. The purpose of the clauses was to clarify contractor responsibilities regarding government property provided to the contractor pursuant to, respectively, fixed-price contracts and cost-reimbursement contracts. The clauses were intended to be in place for a two-year test period. These clauses are no longer needed because of clauses established in higher-level regulations. Specifically, the clause at FAR 52.245-1, "Government Property," (codified May 15, 2007 (72 FR 27390) and most recently updated January 13, 2017 (82 FR 4715)) contains requirements for the use, management, and disposal of government property. Several other FAR and Defense FAR Supplement (DFARS) clauses provide comprehensive coverage of various aspects of government property management.

The removal of this text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order

(E.O.) 13777, “Enforcing the Regulatory Reform Agenda,” which established a Federal policy “to alleviate unnecessary regulatory burdens” on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations. The DoD Task Force reviewed the requirements of 48 CFR part 5152 and determined that the coverage was obsolete and recommended removal.

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing obsolete information. Additionally, the statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707 entitled “Publication of Proposed Regulations.” Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the Army is not issuing a new regulation; rather, this rule merely removes obsolete parts from chapter 51 of title 48 of the CFR.

This rule is not significant under Executive Order (EO) 12866, “Regulatory Planning and Review”; therefore, the requirements of EO 13771, “Reducing Regulation and Controlling Regulatory Costs” do not apply.

#### **List of Subjects in 48 CFR Part 5152**

Government procurement.

**PART 5152—[REMOVED]**

Accordingly, by the authority of 5 U.S.C. 301, 48 CFR part 5152 is removed.

Brenda S. Bowen,  
Army Federal Register Liaison Officer.  
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